

NOV 07 2024

Montana Tax Appeal Board

ROBERT K. PELTOMAA,

Appellant,

v.

STATE OF MONTANA,
DEPARTMENT OF REVENUE,

Respondent.

CASE №: PT-2024-25

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, ORDER,
AND OPPORTUNITY FOR
JUDICIAL REVIEW****STATEMENT OF THE CASE**

This is an appeal of a final decision by the Butte-Silver Bow County Tax Appeal Board (CTAB) denying Robert K. Peltomaa, (Taxpayer) a reduction in value on the subject property located at 1740 Adams Avenue, Butte, Montana (Subject Property). The Taxpayer appealed that outcome to Montana Tax Appeal Board (MTAB) on March 6, 2024. We affirm the CTAB's determination.

ISSUE TO BE DECIDED

Whether CTAB erred in denying Taxpayer's request for a reduction in value on the Subject Property.

EXHIBIT LIST

The Taxpayer attached the following exhibits to his notice of appeal:
Taxpayer Exhibits:

1. Map of Property Value Increases on Farragut Avenue and Adams Avenue Butte MT;
2. DOR Closing Agreement Addressed to Taxpayer, Dated April 27, 2020;
3. Appeal Process Paperwork;
4. 2021 Classification and Appraisal Notice;
5. 2023 Classification and Appraisal Notice;

BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

6. Value Increase Definitions;
7. Form AB-26 Request for Informal Classification and Appraisal Review;
8. Form AB-26 Determination Letter;
9. Form 401 Appeal to CTAB; and
10. CTAB Final Determination Letter.

DOR Exhibits:

- A. Property Record Card;
- B. Property Classification and Appraisal Notice;
- C. Form AB-26: Request for Informal Classification and Appraisal Review;
- D. Form AB-26 Determination Letter;
- E. Appeal to Silver Bow County Tax Appeal Board;
- F. Comparable Sales Report;
- G. Exterior Photos of Property;
- H. Land Model (Base/27 Sales);
- I. Adjusted Sales Price Land Sale Map; and
- J. Property Photos.

PROCEDURAL HISTORY

The DOR valued the Subject Property at \$134,777 for the 2023/2024 appraisal cycle, with the land valued at \$16,897 and the improvements valued at \$117,880. *Ex. A.* The Taxpayer filed an AB-26, Request for Informal Classification and Appraisal Review, with the DOR on July 27, 2023, requesting an improvements value of \$82,500. *Ex. C.* The DOR sent a Form AB-26 Determination Letter to the Taxpayer dated November 8, 2023, denying the Taxpayer's request. *Ex. D.* The Taxpayer appealed the DOR's valuation to the CTAB on January 4, 2024, requesting an improvements value of \$74,393, the land value was not contested. *Ex. E.* The CTAB hearing was held on February 7, 2024, and the CTAB's decision denying the Taxpayer's application for reduction was sent to the parties on February 9, 2024. *MTAB Dkt. 3.* The Taxpayer appealed to MTAB on March 6, 2024, per Mont. Code Ann § 15-2-301, requesting an improvements value of \$74,393, for a total of \$91,290.

BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

MTAB Dkt. 1. The MTAB hearing was conducted in Helena on August 13, 2024, at which the following were present:

- a. Robert K. Peltomaa, Taxpayer; and
- b. Samuel Kane, DOR Counsel; Kassie Hawbaker, Paralegal; Brandon Whitaker, Appraiser; Tim Skop, Modeler; and Kristina Warren, observing.

The record includes all materials submitted to CTAB, a recording of the CTAB hearing, all materials submitted to MTAB with the appeal, additional exhibits submitted by the parties prior to and at the MTAB hearing, and a transcript of the MTAB hearing.

FINDINGS OF FACT

1. To whatever extent the following findings of fact may be construed as conclusions of law, they are incorporated accordingly.
2. The Subject Property is a residential property owned by Robert K. Peltomaa in Butte, Montana. *Ex. A.* The Subject Property is located at 1740 Adams Ave. Butte, Montana, and is identified by its geocode 01-1198-20-2-08-32-0000. *Id.* The Subject Property's land encompasses 3,000 square feet which includes a split-level single-family residence. *Id.* Taxpayer is only contesting the improvements value and not the land value. *MTAB Hr'g Tr. 2:6-10.*
3. The DOR valued the Subject Property at \$134,777 for tax years 2023 and 2024, allocating \$16,897 for the land and \$117,880 for the improvements. *Ex. A.* At the February 9, 2024, CTAB hearing, the Taxpayer requested \$16,897 for the land and an improvements value of 74,393 for a total value of \$91,290. *MTAB Dkt. 3.* The CTAB denied the Taxpayer's request for a value reduction. *Id.* The Taxpayer appealed this decision to MTAB on March 6, 2024, requesting that the Subject Property's improvements be valued at \$74,393 for a total value of \$91,290. *MTAB Dkt. 1; MTAB Hr'g Tr. 3:6-10.*

BEFORE THE MONTANA TAX APPEAL BOARD

ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

4. The Taxpayer calculated an average of a 48% property tax increase among his immediate neighbors. *Ex. 1; MTAB Hr'g Tr. 6:19-7:6*. Taxpayer argued that his property should have only increased by 48% from his June 2020 taxable value to be consistent with his neighbors. *MTAB Dkt. 1; MTAB Hr'g Tr. 6:19-7:6*. The Taxpayer stated that his prior tax assessment was \$83,796 and increased by \$82,000 dollars. *MTAB Hr'g Tr. 6:19-7:6*. Taxpayer argues no improvements have been made and there have been no changes with the Subject Property to warrant a change in value. *MTAB Hr'g Tr. 5:11-23*. Additionally, the Taxpayer argues that taxes have increased despite the Governor saying taxes would not be increased. *Id.*
5. DOR Lead Appraiser for Butte-Silver Bow County, Brandon Whitaker, testified that the Subject Property was valued using the cost method for the 2023/2024 tax cycle and the previous 2021/2022 tax cycle. *MTAB Hr'g Tr. 9:5-9; 11:14-16*. Before the 2021/2022 tax cycle, the property was valued at \$75,000 based on an a DOR appeal settlement. *MTAB Hr'g Tr. 11:23-25*. The DOR used the cost approach to value the Subject Property because the property was valued using the cost in the past, and the cost approach resulted in a slightly lower value for the Subject Property than the sales comparison method. *MTAB Hr'g Tr. 13:20-14:15*. The DOR did not use the sales comparison method because of large adjustments; the only comparable properties to the Subject Property were a grade five, and the Subject Property is a grade four. *Ex. F; MTAB Hr'g Tr. 13:20-14:15; 17:15-19:4*. The comparable properties used were all from the same neighborhood, 201.007.C. *MTAB Hr'g Tr. 19:14-17*.
6. Mr. Whitaker testified that the cost approach is developed using the methodology of replacement cost new less depreciation for the improvements, and the land value is then added to the improvements value. *MTAB Hr'g Tr. 12:4-6*. The DOR did a field review of the Subject Property to ensure they had

BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

the characteristics correct. *Ex. A; MTAB Hr'g Tr. 12:12-13:5*. The improvement is a three bedroom, one and a half bath structure. *Id.* The Subject Property was assigned a grade of four by the DOR, which Mr. Whitaker stated is slightly below average. *Id.* Mr. Whitaker confirmed this through photos of the interior of the Subject Property. *MTAB Hr'g Tr. 16:7-17:14*. The Subject Property has an estimated year built of 1930, with a DOR effective age of 1975, meaning there has been maintenance and upkeep to the structure and property. *Ex. A; MTAB Hr'g Tr. 12:12-13:5*. The house is frame built with a 384 square foot basement that is finished similar to the main floor. *Id.* The house has maintenance-free siding with a gabled roof. *Id.* The DOR listed the Subject Property's utility as fair, as well as the property's desirability and location. *Id.*

7. Mr. Whitaker testified that a property tax percent increase, as suggested by the Taxpayer, cannot be applied uniformly to the Taxpayer's neighborhood because there are many different styles of dwellings and grades of properties. *MTAB Hr'g Tr. 15:10-21*. If the DOR were to apply a percent increase to all properties in a neighborhood, all the properties would have to be of the same grade and style. *Id.*

JURISDICTION AND STANDARD OF REVIEW

8. The Montana Tax Appeal Board is an independent agency not affiliated with the Montana Department of Revenue. *Mont. Const., Art. VIII § 7; Mont. Code Ann. § 15-2-101*. The Taxpayer filed a timely appeal of the DOR's decision to the MTAB. Therefore, this Board maintains jurisdiction to hear and decide this matter. *Mont. Code Ann. § 15-2-301*.
9. This Board may hear appeals de novo. *Dept. of Revenue v. Burlington N.*, 169 Mont. 202, 213-14, 545 P.2d 1083 (1976). "A trial de novo means trying the matter anew, the same as if it had not been heard before and as if no decision

BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

had been previously rendered.” *McDunn v. Arnold*, 2013 MT 138, ¶ 22, 370 Mont. 270, 275, 303 P.3d 1279, 1282.

10. The Board’s order is final and binding upon all parties unless changed by judicial review. *Mont. Code Ann. § 15-2-301(6)*.

CONCLUSIONS OF LAW

11. To whatever extent the following conclusions of law may be construed as findings of fact, they are incorporated accordingly.
12. “All taxable property must be appraised at 100% of its market value....” *Mont. Code Ann. § 15-8-111*.
13. “[I]n connection with any appeal under [Mont. Code Ann. § 15-2-301], the Montana board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act.” *Mont. Code Ann. § 15-2-301(5)*.
14. DOR is entitled to a “presumption of correctness if its decisions are pursuant to an administrative rule or regulation, and the rule or regulation is not arbitrary, capricious or otherwise unlawful.” *Burlington N.*, 169 Mont. At 214, 545 P.2d at 1090. However, DOR cannot rely entirely on the presumption in its favor and must present a modicum of evidence showing the propriety of their action. *Western Air Lines v. Michunovich*, 149 Mont. 347, 353, 428 P.2d 3, 7 (1967).
15. The Taxpayer bears the burden of proving the error of DOR’s decision. *Farmers Union Cent. Exch. V. Dep’t of Revenue*, 272 Mont. 471, 476, 901 P.2d 561, 564 (1995); *Western Air Lines*, 149 Mont. At 353, 428 P.2d at 7.

BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

16. “‘Assessment formulations’ by [the Montana Tax Appeal Board] should be upheld unless there is a clear showing of an abuse of discretion.” *Peretti v. Dep’t of Revenue*, 2016 MT 105, ¶ 15, 383 Mont. 340, 344, 372 P.3d 447, 450 (citing *O’Neill v. Dep’t of Revenue*, 2002 MT 130, ¶ 23, 310 Mont. 148, 155, 49 P.3d 43, 47); see *Northwest Land & Dev. V. State Tax Appeal Bd.*, 203 Mont. 313, 317, 661 P.2d 44, 47 (1983) (overruled on other grounds by *DeVoe v. Dep’t of Revenue*, 263 Mont. 100, 866 P.2d 228 (1993)).
17. The Board “may not amend or repeal any administrative rule of the department,” but may enjoin its application if the Board concludes the rule is “arbitrary, capricious, or otherwise unlawful.” *Mont. Code Ann. § 15-2-301(5)*.
18. The term “improvements” includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. *Mont. Code Ann. § 15-1-101(1)(i)*.
19. The Legislature intended the Department to utilize a number of different approaches or combination of approaches, including the income approach, sales comparison approach, and cost less depreciation approach, depending on the market where the appraisals take place, when it assesses property and estimates market value. *Albright v. State*, 281 Mont. 196, 208-09, 933 P.2d 815, 823 (1997).

DISCUSSION

20. The Taxpayer presented arguments at the hearing but did not present any new evidence. While the Board appreciates the Taxpayer’s arguments, he did not overcome the burden and prove the DOR valued his property incorrectly. The Taxpayer did not address the DOR’s appraisal in his arguments and in no way disputed the appraisal. Because the burden lies with the Taxpayer to prove an error in the DOR’s appraisal, the Board must uphold the CTAB’s decision.

BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

21. The Board appreciates the Taxpayer's argument that his property tax increase should be consistent with his neighbors' average increase of 48%. The DOR is mandated to value every property at market value. Applying an even percent increase does not capture appreciating or depreciating properties, nor does it consider market conditions or buyers' preferences. As the DOR argued, a percent increase does not account for different grades of properties and different construction styles. The Board would like to point out that the Taxpayer most likely saw a disproportional increase in his property because of the DOR's AB-26 settlement during the 2021/2022 tax cycle, which likely valued the Subject Property below market value. Lastly, just because nothing has changed or been added to the Subject Property does not mean that the property has not appreciated since the last tax cycle.

22. Mr. Whitaker testified that the Subject Property was valued using the cost approach because the DOR has used the cost approach in prior years. Furthermore, the comparable sales for the Subject Property were of a different grade. The Board finds that using the cost approach is acceptable and notes that the cost approach did produce a lower value than the comparable sales method. The DOR presented testimony and photo evidence showing that the Subject Property's condition was, in fact, a grade four property. The DOR also presented evidence showing that the Subject Property's utility and location are correctly classified as fair. The Taxpayer did not contest any aspects of the DOR's use of the cost method, or the DOR's appraisal as a whole.

23. The Board finds that the Taxpayer did not meet his burden to prove the DOR made a mistake in its appraisal. On the other hand, the DOR presented evidence showing that the appraisal of the Subject Property's improvements was correct. The Board upholds the CTAB's taxable value of \$134,777 for the 2023/2024 tax cycle.


BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

ORDER

24. The Taxpayer's appeal is denied
25. The DOR will value the Subject Property at \$134,777 for the 2023/2024 tax cycle

Dated this 7th day of November 2024.





Amie Zendron, Member



Travis Brown, Member

Notice: You are entitled to judicial review of this Order by filing a petition in district court within 60 days of the service of this Order. The Department of Revenue shall promptly notify this Board of any judicial review to facilitate the timely transmission of the record to the reviewing court. *Mont. Code Ann. §15-2-303(2).*

BEFORE THE MONTANA TAX APPEAL BOARD
ROBERT K. PELTOMAA v. STATE OF MONTANA, DEPARTMENT OF REVENUE

Certificate of Service

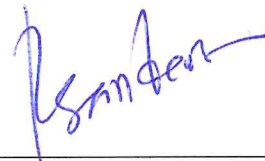
I certify that I caused a true and correct copy of the foregoing Findings of Facts and Conclusions of Law to be sent by email and United States Mail via Print & Mail Services Bureau of the State of Montana on November 7, 2024, to:

Robert K. Peltomaa
1740 Adams Ave.
Butte, MT 59701

Samuel Kane
State of Montana, Department of Revenue
Legal Services Office
P.O. Box 7701
Helena, MT 59604-7701

Paula Gilbert
State of Montana, Department of Revenue
Property Assessment Division
P.O. Box 8018
Helena, MT 59604-8108

Jessica Cunneen
Butte Silver-Bow County Tax Appeal Board
3619 Wynne Ave
Butte, MT 59701



Rina Sanderson, Legal Secretary